THE HONOURABLE SRI JUSTICE N.V.RAMANA

WRIT PETITION No. 27426 of 1996

DATED: 31-1-2007

Between:

M.Harithamma

…Petitioner

and

Director of School Education,
Government of A.P.,
Hyderabad and others.

…Respondents.

THE HON'BLE SRI JUSTICE N.V.RAMANA

W.P. No. 27426 of 1996

Oral order:

The petitioner is questioning the proceedings dated 29-08-1996 issued by the 1st respondent canceling the order dated 15.11.1990 of the 3rd respondent, promoting the petitioner to the post of School Assistant, as approved by the 2nd respondent vide his order dated 09-03-1992, as illegal and arbitrary.

The petitioner states that she was appointed as School Assistant in the 3rd respondent-ABM Junior College in an unaided post on 6-12-1986, while the 4th respondent was appointed as SGBT Teacher in an unaided post on 6-1-1978 in ABM Elementary School. While so, the petitioner was transferred from the Junior College to the Elementary School, and she was absorbed in the aided post of Secondary Grade Teacher. The petitioner, was against transferred from the Elementary School to the Junior College, to which High School Sections were attached. As the petitioner was said to be working in the High School Sections, and having regard to her educational qualifications, namely B.Com.,B.Ed., the 3rd respondent promoted the petitioner as School Assistant vide orders dated 15.11.1990. Aggrieved thereby, the 4th respondent made representations to respondent Nos. 1 to 3, and while the said representations were pending, the 2nd respondent vide orders dated 09.03.1992, approved the absorption of the petitioner as School Assistant. As the representations of the 4th respondent were not disposed of, she filed writ petition in W.P. No. 612 of 1993, and this Court by orders dated 27.01.1993, disposed of the same directing the

4th respondent to file appeal before the 1st respondent. The 1st respondent after calling for a report from the 2nd respondent, vide orders dated 08.02.1994 disposed of the appeal filed by the 4th respondent. Assailing the said orders of the 1st respondent, the petitioner filed writ petition in W.P.

No. 3701 of 1994, and having regard to the fact that the 1st respondent disposed of the appeal without issuing notice to the petitioner, this Court by order dated 19.07.1994, disposed of the writ petition remitting the appeal to the 1st respondent and giving liberty to the petitioner to file his objections in the appeal. In pursuance of the said order, the 1st respondent by order dated 29.08.1996 disposed of the appeal, canceling the order of promotion dated 15.11.1990, as approved by the 2nd respondent vide his orders dated 09.03.1992, and directed the 3rd respondent to consider the case of the 4th respondent for promotion to the post of School Assistant. It is this order, which the petitioner seeks to assail in this writ petition.

Heard the learned counsel for the petitioner, the learned Government Pleader for School Education for respondent Nos. 1 to 2, the learned counsel for respondent No.3 and learned counsel for respondent No. 4.

Though the petitioner contends that she was appointed as School Assistant in an unaided post in the 3rd respondent-Junior College, and that she has the requisite qualifications to hold the post of School Assistant, the fact remains, as is evident from the report of the Deputy Educational Officer and the impugned order, the post of School Assistant, in which the petitioner claims to have been appointed, was not created by the competent authority and no approval orders were issued, approving the appointment of the petitioner.

Since the competent authority did not create the unaided post, in which the petitioner claims to have been appointed, his very appointment in the post of School Assistant in the Junior College, is

irregular. If the petitioner was appointed in an unaided post of School Assistant in the Junior College, she should have been absorbed in the said post only, but instead of that, she was absorbed in an aided post of Secondary Grade Teacher in the Elementary School, which is lower than the post of School Assistant. Even this absorption of the petitioner, the report reveals, no approval, as is required by the Rules from the 2nd respondent, was obtained. No reason whatsoever has been assigned either by the petitioner or the 3rd respondent as to why the approval of the 2nd respondent could not be obtained.

Apart from the appointment of the petitioner being irregular, it is the case of the 1st and 2nd and 4th respondents that the petitioner, who possess the qualifications of B.Com., B.Ed., is not qualified to hold the post of School Assistant, for as per the provisions of G.O. Ms. No. 167, Education, dated 09.03.1984, the qualifications required for appointment to the post of School Assistant is B.A. or B.Sc. with B.Ed. Since the petitioner possesses the qualifications of B.Com., B.Ed., certainly as per the provisions of G.O. Ms. No. 167, Education, dated 09.03.1984, he is not qualified to hold the post of School Assistant.

Further, the petitioner, who claims to have been appointed in the year 1986, is said to be much junior to the 4th respondent, and this is evident from the fact that the 4th respondent was appointed in the year 1978. Since the 4th respondent was appointed in the year 1978, the petitioner cannot claim that she is much senior to the 4th respondent, and more so when her very absorption in the aided post of Secondary Grade Teacher in the Elementary School, is said to be nor in order.

In fact, all the above factors weighed with the 1st respondent in passing the impugned order dated 29.08.1996 in canceling the order dated 15.11.1990, issued by the 3rd respondent, promoting the petitioner to the post of School Assistant, as approved

by the 2nd respondent vide orders dated 09.03.1992, and no exception can be taken thereto.

For the foregoing reasons, I find no merit in the writ petition, and the same is accordingly dismissed. No costs.

N.V.RAMANA, J

31st January, 2007
GRR